Chandka

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 2851 OF 1986

The Municipal Corporation of
Greater Mumbai ..Plaintiff

versus

M/s. Bombay Crystal Ice Works
& Ors. ..Defendants

Mr. H. C. Pimple for the Plaintiff.

Mr. A. S. Doctor with Mr. Jay Chhabria i/b. M/s. Federal & Rashmikant for the Defendant No. 5.

CORAM : S. A. BOBDE, J.
DATE : 11TH DECEMBER, 2007.

P.C.

. Heard.

2. This is a suit interalia for the following reliefs:

(a) that the defendants be ordered and decreed to specifically perform their part of the said agreement dated 20th December, 1972 by executing Deed of Assignment and Conveyance in favour of the plaintiffs;

(b) that in the event of the defendants not executing a Deed of Assignment or Conveyance in favour of the plaintiffs, this Hon'ble Court be pleased to appoint the Prothonotary and Senior Master and or any other court officer to execute the said Deed of Assignment or Conveyance in favour of the plaintiffs, on behalf of the Defendants and to get the same duly registered on behalf of the defendants;

3. Suit has abated against Defendant Nos. 2, 3 and 4, so far as L.Rs. are not being brought on record. Defendant No. 5 has not filed any written statement. Learned counsel for the defendant No.5 states that the said defendant is about 83 years old and does not wish to contest the suit. As stated earlier, she has not filed any written statement nor she has appeared to give evidence.

4. An order was passed in Notice of Motion No. 4534 of 2007 permitting the plaintiffs to lead secondary evidence.

5. Perused the affidavit of evidence and the documents on record. Learned counsel for the defendant No.5 states that defendant No.5 has no objection to the decree being passed in terms of prayer clauses (a) and (b). However, since defendant No.5 is not in a position to travel, she prays that the Deed of Assignment or Conveyance be executed on her behalf by the Prothonotary & Senior Master of this Court. Accordingly, the suit is decreed in terms of prayer clauses (a) and (b). No order as to costs. Order accordingly.

(S. A. BOBDE, J.)